



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Administration and Management

Minutes

March 28, 2012

Members Attending

Paul Bardos

*Gov't Member, International
Trade Commission*

Amy P. Bunk

*Liaison Representative, Office of
the Federal Register*

John Cooney (Committee
Chair)

*Public Member, Venable
LLP*

Martin Conrey (by phone)

*Gov't Member, Small Business
Administration*

Bridget C.E. Dooling

*Gov't Member, Office of
Management and Budget*

Daniel Levinson,

*Liaison Representative,
Council of Inspectors
General on Integrity and
Efficiency*

Michael Ravnitzky (by phone)

*Gov't Member, Postal
Regulatory Commission*

Robert Taylor

*Gov't Member, Department of
Defense*

James J. Tozzi

*Public Member, Center for
Regulatory Effectiveness*

ACUS Staff Attending

Emily Bremer

In-House Researcher

Jeffrey S. Lubbers

Research Director

Christopher Shannon

Intern

Paul R. Verkuil

Chairman

Invited Guests Attending

Peggy Gustafson

*Small Business Administration
Office of Inspector General*

David Rostker

*Small Business Administration
Office of Advocacy*

Stuart Shapiro

*Consultant, Rutgers
University*

Sheldon Shoemaker

*Small Business Administration
Office of Inspector General*

Carol Ann Siciliano

*Gov't Member, Environmental
Protection Agency*

Jill Wright

*Department of Health and
Human Services, Office of
Inspector General*



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The meeting commenced at 1:30 pm in the conference room of the Administrative Conference.

Meeting Opening

Committee Chair John Cooney opened the meeting and made introductory remarks. He called for the committee to approve the minutes of its February 29 meeting. The minutes were so approved.

Research Director Jeffrey Lubbers stated that after the last committee meeting discussing the Paperwork Reduction Act (PRA), Conference staff reached out to other interested parties, including the Inspectors General (IG) community and the Small Business Administration (SBA), which held a roundtable discussion on the issues.

Mr. Cooney asked invited guests representing the IGs and the SBA's Office of Advocacy to provide remarks on the draft recommendations.

Peggy Gustafson presented an overview of a report from the Council of Inspectors General on Integrity and Efficiency (CIGIE) that explains the IG community's concerns regarding the PRA. Ms. Gustafson noted that there is already an exception for criminal investigations, but the IG community continues to believe that the PRA is too restrictive and undermines IG independence. She explained that the IG community would like an exception similar to the exception the Government Accountability Office (GAO) currently has under the PRA. IGs would also prefer that an independent body be responsible for approving their PRA requests.

David Rostker, the representative from the SBA Office of Advocacy, explained that his office is an independent office within SBA and that his statements do not necessarily represent the views of SBA or the Administration. Mr. Rostker then presented an overview of some of the concerns the small business community had with the draft recommendation.

Recommendation Three

Mr. Cooney began the committee discussion of the draft recommendation with recommendation three because of time constraints of the IG community representatives. The recommendation numbers used in these minutes relate to the March 28 draft recommendation.

Jim Tozzi stated that he supported the recommendation as written. Robert Taylor offered an alternative to recommendation three that was not supported by the committee. Daniel Levinson stated that the IG community was seeking a legislative solution to the PRA and that recommendation three should be dropped. Martin Conrey moved for recommendation three to be deleted, and the motion passed.



Recommendation One

Bridget Dooling expressed some concerns about delegating PRA review to individual agencies. She explained that some agencies would not be able to handle the additional work required to do a proper PRA review. She also noted that there was a lack of support for the recommendation and that before the Conference recommends a pilot program for delegation, there should be some study of existing delegations. Mr. Tozzi also proposed that any pilot program be time limited, so that OMB could revert back to its own review procedures after two years. Mr. Cooney observed that the committee seemed to be in agreement that the recommendation was good one and would be willing to make some modifications later based on OMB's consideration of the provision. Ms. Dooling cautioned that even with additional clarification she was unsure if OMB could support the recommendation.

Recommendation Two

Ms. Dooling expressed doubt over the need for recommendation two. Stuart Shapiro responded that the OMB provides little guidance on why special government employees are treated differently. Following further discussion, Ms. Dooling moved for recommendation two to be deleted, and the motion passed.

Recommendation Four

Mr. Rostker stated that the small business community was opposed to making the standards less stringent for agencies. Even if an information collection is voluntary, there is still a strong interest in ensuring that the collection complies with the PRA because an overly burdensome survey could have a negative effect on the reliability of the survey. Carol Ann Siciliano stated that the EPA supports the recommendation because it would allow greater public input on rules before the agency begins the rulemaking process. Ms. Dooling recommended adding language that OMB should counsel agencies on the use of generic approvals. Her suggested language was adopted into the recommendation. The committee also changed the language regarding "focus groups" and "information collections" needed to "perform regulatory analysis" to simply "voluntary collections." Mr. Cooney stated that the changes Emily Bremer made to the draft recommendations during the committee discussion were approved by the committee.

Recommendation Five

Darren Baxter, a public attendee, expressed concern about increasing PRA approval times from three years to five years. He felt the recommendation should go in the opposite direction. Mr. Lubbers noted that the recommendation would apply only to the most uncontroversial and generic requests. Mr. Rostker noted that it is very difficult for OMB to



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determine what is going to be controversial for one year, let alone five. He also noted that the Congress has repeatedly supported a three year maximum for OMB's PRA approvals. Mr. Cooney suggested that the recommendation could be changed to require retrospective review of an approval after three years. Mr. Lubbers noted that such a recommendation really would not change current practice. Ms. Bremer suggested that only re-approvals without significant change of agency information collections should be eligible for five year approval. The committee agreed.

Recommendation Six

Mr. Tozzi thought the new recommendations were a significant improvement over the previous draft. Mr. Lubbers explained that he tried to incorporate into recommendation six the comment of Richard Belzer, a former OIRA official, that OMB should make public comments available online before the end of the 30 day comment period. Ms. Dooling stated that she would have to talk to some of her colleagues about the logistics of the recommendation before she could support it.

Recommendations Seven and Eight

The committee did not have enough time to discuss these recommendations. However, Mr. Rostker noted that the reporting requirement is one of the few opportunities for OMB to engage in a policy discussion with agencies. There was no committee action on these recommendations. Mr. Cooney stated that the committee would address these recommendations at a future meeting.

Meeting Closing

The meeting adjourned at 4:30 pm.